

LBNL – PROCUREMENT STANDARD PRACTICES

Section: 19 Socioeconomic Programs

Subject: 19.1 Socioeconomic Programs – General

PURPOSE:	This standard practice (SP) outlines requirements under the Laboratory's socioeconomic program and describes the procedures for implementation.
POLICY:	The Laboratory will provide small business (SB) concerns the maximum practicable opportunity to participate in the performance of Laboratory subcontracts, and ensure the timely payment of amounts due to SB concerns, pursuant to the terms of their subcontracts, consistent with the efficient performance of the Prime Contract.
SCOPE:	This SP applies to all subcontracts.
DEFINITIONS:	
8(a) Program	An 8(a) program is a program, established by section 8(a) of the <i>Small Business Act</i> , 15 U.S.C. § 637(a), authorizing the Small Business Administration (SBA) to enter into contracts with procuring agencies and award subcontracts for performing those contracts to firms eligible for program participation.
HUBZone	<p>A HUBZone is a historically underutilized business zone, which is an area located within one or more qualified census tracts, qualified nonmetropolitan counties, or lands within the external boundaries of an Indian reservation.</p> <p>The HUBZone Empowerment Contracting Program stimulates economic development and creates jobs in urban and rural communities by providing Federal contracting preferences to small businesses. These preferences go to small businesses that obtain HUBZone certification in part by employing staff who live in a HUBZone. The company must also maintain a “principal office” in one of these specially designated areas. The program resulted from provisions contained in the Small Business Reauthorization Act of 1997.</p>
HUBZone Small Business (HZSB)	A HUBZone small business is a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the SBA.
Service-Disabled Veteran	A Service-disabled veteran is a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).
Service-Disabled Veteran-Owned Small Business (SDVOSB)	<p>A service-disabled veteran-owned small business is a small business concern:</p> <p>(1) Not less than 51% of which is owned by one or more service-disabled veterans or, in the case of any publicly</p>

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owned business, not less than 51% of the stock of which is owned by one or more service-disabled veterans; and

- (2) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

Small Business (SB)

Small business means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

In general, a small business is a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation, and qualifies as a small business under the criteria and size standards in 13 CFR 121. Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged.

SB Concern

As used herein, the term SB concern includes: small business (SB), HUBZone small business (HZSB), small disadvantaged business (SDB), service-disabled veteran-owned small business (SDVOSB), veteran-owned small business (VOSB), women-owned small business (WOSB), and 8(a) concerns.

Small Business and Supplier Management Office (SB&SMO)

The SB&SMO provides assistance to procurement specialists and reviews subcontracting plans for socioeconomic business participation.

Small Disadvantaged Business (SDB)

Small disadvantaged business concern means a small business concern that represents, as part of its offer, that—

- (1) It has received certification as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B;
- (2) No material change in disadvantaged ownership and control has occurred since its certification;
- (3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
- (4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the SBA (see the Central Contractor Registration-Dynamic Small Business Search website).

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Socioeconomic Business Concern

A socioeconomic business concern is a small business, small disadvantaged business, women-owned small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, or 8(a) firm.

Veteran-Owned Small Business (VOSB)

A Veteran-owned small business is a small business concern:

- (1) Not less than 51% of which is owned by one or more veterans [as defined at 38 U.S.C. 101(2)] or, in the case of any publicly owned business, not less than 51% of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

Women-Owned Small Business (WOSB)

A women-owned small business is a small business concern that is at least 51% owned by one or more women or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more women and whose management and daily business operations are controlled by one or more women. A women-owned business does not qualify as disadvantaged unless the owner is also a disadvantaged person as described above.

PROCEDURES:

General

Procurement specialists shall provide SB concerns the maximum practicable opportunity to participate in the performance of Laboratory subcontracts.

Participation Support

To ensure that SB concerns are afforded the maximum practicable opportunity to participate in subcontracting requirements, the procurement specialist, SB&SMO, or other appropriate personnel must:

- Discuss subcontracting opportunities with representatives of SB concerns, as appropriate; and
- Assist SB concerns by arranging solicitations, time for the preparation of offers, quantities, specifications, and delivery schedules to facilitate the participation by SB concerns to the maximum extent practicable.

Source Lists

The procurement specialist may rely upon source lists developed by the Laboratory or may utilize local, regional, statewide directories, Federal resources, or other available sources.

Solicitations

Small Business Size Standards and North American Industry Classification System (NAICS) Codes — A small business size standard must be specified in all solicitations, so that offerors can

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appropriately represent themselves as a small or large business. Small business size standards for a solicitation are identified by determining the NAICS code that best describes the principal nature of the product or services to be acquired. Refer to the SBA's table of NAICS Codes and corresponding small business size standards at:

<http://www.sba.gov/size/indexableofsize.html>

For Wholesale and Retail NAICS Codes (Sectors 42, 44, and 45 of the SBA table of NAICS Codes), procurement specialists shall use the size standard of 500 employees instead of the size standards indicated in the table.

For solicitation purposes, a product or service will be classified by only one NAICS Code. If a product or service could be classified by two or more NAICS Codes with different size standards, the NAICS Code that accounts for the greatest percentage of the total subcontract price shall be applied.

When more than one product or service is to be acquired and offers will be accepted on:

- Any one or all of the products or services, then apply a size standard to each product or service.
- All or none of the products or services, then apply a size standard for the product or service accounting for the greatest percentage of the total subcontract price.

Socioeconomic Business Participation

For subcontracts exceeding \$100,000, the subcontract file must document:

- Whether SB concerns were solicited and if not, why not;
- Whether the subcontract was awarded to a SB or large business concern; and
- The reason(s) for awarding the subcontract to a large business if SB concerns were solicited.

Set-Asides

Good faith efforts should be made to set-aside subcontracts, regardless of the amount, for SB concerns when it is expected that offers can be obtained from at least two responsible concerns to assure reasonable prices, quality, and acceptable delivery (see SP 19.3, *Set-Asides and Non-Competitive Awards*).

Coding

Awards to SB concerns shall be coded in the Procurement management information system. Awards that qualify for coding in more than one category may be counted in every qualifying category. For example, an award to an 8(a) concern may also be counted as an SDB award and a SB award.

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Socioeconomic Status

With the exception of HZSB, SDB, and 8(a) concerns, the Laboratory may rely on a subcontractor's written representation regarding its socioeconomic business status.

The procurement specialist shall verify the socioeconomic business status of HZSB, SDB, and 8(a) concerns prior to award, through a search of the *SBA Dynamic Small Business Search* database, which accessible from the Central Contractor Registration Website at <http://www.ccr.gov>.

A company whose status changes after the award of a subcontract retains the status assigned at the time of the award for that subcontract only, including any options.

A subcontract awarded to an 8(a) concern must be terminated if the 8(a) concern transfers ownership or control of the concern or if the subcontract is transferred or novated for any reason to another concern, unless the SBA waives the requirement for termination.

Distributorship

A distributor for another company should be assigned the socioeconomic category that the distributor qualifies for without regard to its association with the other company. If the distributor is a direct affiliate, owned and operated by the other company, it should be assigned the category of the parent company.

Protests of a Small Business Representation

Any offeror or other interested party (including the procurement specialist) may protest the small business representation of an offeror. Only protests that are timely shall be considered (see SP 33.1, *Protests*). Protests of a small business representation that the Laboratory is unable to resolve must be promptly forwarded in writing, to the SBA with a copy to DOE Contracting Officer.

Payments to SB Concerns

Procurement specialists shall ensure that timely payments of amounts due to SB concerns are made pursuant to the terms of their subcontracts.

RESPONSIBILITIES:

Procurement Specialist

The procurement specialist shall:

- Discuss subcontracting opportunities with representatives of SB concerns, as appropriate;
- Assist SB concerns to facilitate their participation in Laboratory subcontracts to the maximum extent practicable;
- Use source lists, as appropriate, to locate potential SB concerns;
- Specify the small business size standard(s) in all solicitations;

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- Document the file for exceeding the small purchase limit to reflect whether SB concerns were solicited and/or awarded the subcontract and if not, why not;
- Properly code subcontracts for socioeconomic status;
- Refer protests regarding the socioeconomic business status of subcontractors to the SBA in a timely matter with a copy to the DOE Contracting Officer;
- Verify the correct status of HZSB, SDB, and 8(a) concerns;
- Obtain Representation and Certification regarding subcontractors' socioeconomic business status on orders exceeding \$100,000 prior to award;
- Terminate an award to an 8(a) concern, if the 8(a) concern transfers ownership or control of the concern or if the subcontract is transferred or novated for any reason to another concern, unless the SBA waives the requirement for termination; and
- Ensure that timely payments are made of amounts due to SB concerns pursuant to the terms of their subcontracts.

CLAUSES:

Include the *Utilization of Small Business Concerns* clause (FAR 52.219-8) in solicitations and subcontracts, other than small purchases, that offer further subcontracting opportunities.

REFERENCES:

Prime Contract Clause I.15 - Utilization of Small Business Concerns
Prime Contract Clause I.50 – Subcontracts for Commercial Items
Prime Contract Appendix H - Small Business, Veteran-Owned Small Business, Service-Disabled Veteran-Owned Small Business, HubZone Small Business, Small Disadvantaged Business, and Women-Owned Small Business Model Subcontracting Plan